2. Board Authority

Conservation districts are political subdivisions of the state organized under the Colorado Soil Conservation Act Colorado Revised Statutes - CRS 35-70-101 through 35-70-122 available on the Lexis Nexis web site, the official source of the Statutes. Conservation district supervisors have important roles as local conservation leaders to effectively nurture conservation in communities across the State. Supervisors are unpaid ELECTED officials. Supervisors have legal responsibilities and duties. Each district is governed by a board of five to eleven supervisors.

The supervisors are local landowners (or their designee per CRS 35-70-107) and serve as volunteers without pay.

Cooperative Agreements

3-Way Cooperative Working Agreements

CSCB, NRCS and each Conservation District are in the process of developing a new 3-way cooperative working agreement. These agreements will define and help the districts; NRCS and CSCB understand their roles and responsibilities and build on strengths as they work to cooperatively deliver service to the landowners. Link to Agreements Chapter for more details.

Local Working Agreements

Each Conservation District and NRCS Field Office is also encouraged to consider developing their own local working agreement to identify the operating procedures that will be efficient and effective. Link to Agreements Chapter for more details.



District Bylaws



Bylaws are, as their name implies, the law of an organization. Bylaws are rules adopted by the conservation district, in many cases amended over time, to define and direct the district's internal structure, policies, and procedures. Bylaws are desirable because they define the internal structure of an organization for all to see. Instead of relying on the memories of founders or long-time members, governance and other policy decisions can be made based on a concrete document.

Conservation districts have adopted bylaws through the years as an important tool for the operations of an effective district. It is highly recommended that each district review their bylaws to assure they reflect changes to the Colorado Revised Statutes (CRS) and current business practices. Colorado Revised Statutes do take precedence over individual district bylaws. However, bylaws often times provide greater detail and guidance.



Amendments to bylaws are permitted and the procedure is mandated in CRS 35-70-109 (3)

"The bylaws of any conservation district may be altered, amended, or repealed or additions made thereto at any regular or regularly called special meeting of the district, upon compliance with the following requirements: A

petition whose text sets forth the proposed amendment in full, signed by not less than three percent or fifty of the qualified voters of the district, whichever is less, must be filed with the supervisors; the complete text of the proposed amendment must be published in the notice of the meeting at which it is to be considered, which notice must be published at least once in a newspaper of general circulation within each county in which property included within the district is located, not less than ten days prior to the said meeting; and those present at the said meeting at which the proposed amendment is to be considered shall constitute a quorum for the consideration of the proposed amendment, and the affirmative vote of a two-thirds majority thereof shall be required to adopt the proposed amendment"

Districts should review bylaws to ensure they are not obsolete and consider the following:

TEN REASONS WHY YOU SHOULD AMEND YOUR DISTRICT'S BYLAWS

- 1. To change to a SPECIFIC number of supervisors not less than five and not more than eleven (i.e. five, seven, nine, or eleven)
- 2. To permit the district to levy a tax through a vote of the landowners within the district.
- To eliminate the district board of appeals and replace it with the State Conservation Board
- 4. To address number of landowners necessary to constitute a quorum at the annual meeting.
- 5. To delete reference to appointed members of the board of supervisors.
- To update procedure to amend bylaws in accordance with Colorado Soil Conservation Act.
- 7. To eliminate voting by proxy at any district meeting.
- 8. To include provisions for term limits for members of the Board of Supervisors.
- 9. To include the provision requiring at least sixty-six percent of the supervisors to be agricultural producers who are landowners in the district.
- 10. To state that each supervisor will serve for a term of four years.

Click here for a comprehensive bylaws template when adopting new bylaws with provisions to provide for all ten changes.

Elected Public Officials

District officials in Colorado are referred to as "Supervisors". Supervisors are unpaid, ELECTED officials with legal responsibilities and duties. They are elected by landowners to staggered four-year terms with a portion of the positions available at one regular election and the remainder of the positions at the next regular election. These staggered terms improve the stability and consistency for conservation district programs. Supervisors may come from many different occupations, but, by law, all supervisors must be qualified electors in the district.

District supervisors, as unpaid ELECTED officials, hold a unique position among agencies managing Colorado's natural resources. They serve as the grass roots representatives of landowners and the general public in their communities, providing leadership and direction to

bring volunteer cooperation in natural resource conservation programs. Upon taking the oath of office each supervisor agrees to carry out the responsibilities of the position as specified in CRS Title 35 Article 70. In contrast a volunteer board member of an ordinary organization does not have the same legal responsibilities and duties to local landowners and citizens under the law.



Ex-Officio Members of Conservation Boards

Colorado Soil Conservation Act, CRS 35-70-116 specifies that "Any resident county extension agent whose jurisdiction lies wholly or in part in any established conservation district **shall be** an ex officio member of the board of supervisors of such district in an advisory capacity, but without the right to vote. Any county agent may serve in such capacity in more than one district." The county extension agents work with conservation districts to provide a link between Colorado State University and landowners of the districts to make available the research, information and expertise provided by the University to solve problems and improve the quality of life. They provide expertise in agriculture and natural resources to the district and landowners. Development of this relationship is very important as the conservation district and the local extension agent work together to deliver educational and information services to district landowners and citizens.



Powers and Duties of Districts Summary - CRS Article 35-70-108.



A conservation district, through enabling statutes (CRS 35-70-108), has the following powers and duties in addition to others granted in the article:

- To conduct surveys, investigations, and research
- To conduct demonstrational projects within the district
- To erect structures and maintain any facilities to arrest or prevent the erosion of soils or lands
- To cooperate or enter into agreements with and, within the limit of its available funds, to furnish financial or other aid to any agency, owner or occupant of lands within the district
- To obtain options upon and to acquire or acquire control of, any property, real or personal
- To make available to landowners and occupants within the district, agricultural and engineering machinery, equipment and supplies
- To accept grants, services, and materials and to borrow money
- To take over, by purchase, lease, or otherwise, and to administer any soil conservation or erosion control project
- To sue and be sued in the name of the district; to have a seal which shall be judicially noticed
- To prepare a plan for the care, treatment, and operation of the lands within the district.
- To cause annual audits to be made in accordance with the "Colorado Local Government Audit Law":
- To make contributions of information, data, statistics, funds, or other contributions valuable in the furtherance of land conservation
- To sponsor, plan, construct, maintain, and operate flood prevention and watershed improvement projects
- To participate in the formulation and implementation of nonpoint source water pollution control programs

These powers and duties may be exercised by the supervisors subject to rules, regulations, and the district's bylaws.

Removing Board Members from Office

The procedure for removal of Supervisors and Officers is usually specified in the local district's bylaws. Conservation Districts, as special districts, must follow the bylaws procedure to remove any member of the Board by the procedure outlined in Section 32-1-906 and Section 32-1-907 of the Colorado Revised Statutes. "Any officer of the Board may be removed from such office at any time by a majority of all Board members. Any Board member may be removed from any committee or other appointment by majority vote of the Board. If a member of the Board fails to attend three consecutive regular meetings of the Board without the Board having entered upon its minutes an approval for an additional absence or absences; except that such additional absences or absences shall be excused for temporary mental or physical disability or illness, he/she shall be removed from the Board."

Special Districts and Political Subdivisions of the State

Conservation Districts are both special districts and political subdivisions of the state as defined in CRS Title 32 Article 1. The general assembly in CRS 32-1-1-2 "hereby declares that the organization of special districts providing the services and having the purposes, powers, and authority provided in this article will serve a public use and will promote the health, safety, prosperity, security, and general welfare of the inhabitants of such districts and of the people of the state of Colorado. <u>Unless authorizing legislation specifies otherwise, conservation districts</u> follow statutory requirements for special districts.

32-1-103. Definitions (20)

"Special district" means any quasi-municipal corporation and political subdivision organized or acting pursuant to the provisions of Article 32.

Conservation Districts are political subdivisions of the state as specified in the "authorizing legislation". This "authorizing legislation" means the provisions of the state statutes known as the Soil Conservation Act - CRS Title 35-Article 70 which authorize the existence and powers of a district. CRS 35-70-106 also specifies a "district to be a lawful conservation district under its name as shown in the records, and thereafter such district shall be a public body corporate and a political subdivision of the state of Colorado and shall have all the powers and duties imposed upon such districts under the provisions of this article. Because the district is a political subdivision of the state, the property of such district, both real and personal, shall be exempt from taxation pursuant to section 4 of article X of the state constitution.



Term Limits

Special districts are subject to term limits set forth in the Colorado Constitution. Article XVIII, § 11(1). Amendment 17 limits an "elected official" of any political subdivision of the state of Colorado to two consecutive terms in office.



The Soil Conservation Act, Title 35 Article 70 specifies that supervisors are elected by landowners to staggered four-year terms with a portion of the positions available at one regular election and the remainder of the positions at the next regular election so that no more than a simple majority of supervisors' terms expire in a given year. Regular election means the election on the Tuesday, succeeding the first Monday of May in every even-numbered year, held for the purpose of electing members of the boards of special districts. CRS §32-1-103(17)

Districts can eliminate term limits restrictions if a successful election is conduct and qualified electors approve eliminating the term limits set forth in the Colorado Constitution. Article XVIII, § 11(1). Elimination of term limit restrictions **does not mean** that a district supervisor is not required to run for election when his/her term expires. It simply means that the supervisor may run and be elected for as many terms as he/she may desire rather than being limited to two consecutive four year terms.

The Attorney General has issued opinions related to term limits which clarify two issues. Both of the issues potentially affect conservation district supervisor terms.

- 1. The first issue concerns the applicability of term limits to persons who are declared elected after an election is cancelled because no challengers are running. Apparently, some special districts contended that because they were "declared elected" after the election was cancelled due to there not being more candidates than offices to be filled at the election, they are not "elected officials," and thus not subject to term limits. After reviewing the case law precedents, the Opinion declares that to adopt such an interpretation would lead to illogical and inconsistent results, which are not supported by law. The Attorney General's opinion holds that the term "elected official," as used in the Term Limits Amendment, includes persons elected to a local office at an actual election or deemed elected as a result of a cancelled election.

 Link to PDF Term Limits: AG Opinion 2005-4 (SDA Article)
- The second issue addresses whether Amendment 17 term limits apply to terms of office that result from interim appointments made to fill partial terms. The Opinion clarifies that the term limitations of Amendment 17 have no application to partial terms of office, but rather, apply only to full terms of office. Link to AG Opinion No. 2000-2

STEPS TO AMEND CONSERVATION DISTRICT BYLAWS

- 1. A petition stating the text of the proposed amendment in full to the current bylaws must be developed. (See sample petition.)
- 2. The petition must be signed by not less than three percent or fifty of the qualified voters of the district, whichever is less.
- 3. The completed petition must be filed with the board of supervisors.
- 4. The complete text of the proposed amendment must be published in the notice of the meeting at which it is to be considered.
- 5. The notice (legal notice) must be published at least once in a newspaper of general circulation within each county in which property included within the district is located not less than ten days prior to the meeting.
- 6. This meeting could be the annual meeting of the landowners of the district or it could be a special meeting of the landowners called for this purpose.
- 7. Those present at this meeting shall constitute a quorum for the consideration of the proposed amendment.
- 8. The affirmative vote of a two-thirds majority of those present shall be required to adopt the proposed amendment to the bylaws.
- 9. A copy of the amended bylaws of the conservation district should be mailed to the Colorado State Conservation Board.

CRS 35-70-109 (3)

March, 1996